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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TODD ASHKER and DANNY TROXELL,

Plaintiffs,

v.

EDMUND G. BROWN, JR., et al.,

Defendants.

No. 09-05796 CW

ORDER DENYING  
PLAINTIFFS'  
MOTION FOR TAPED  
DEPOSITIONS AS  
PREMATURE  
(Docket No. 27)

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Pro-se Plaintiffs Todd Ashker and Danny Troxell, inmates at Pelican Bay State Prison (PBSP), move for the Court to order Defendants to allow Plaintiffs to depose two witnesses via audio-tape rather than with a stenographer. Defendants oppose the motion on the ground that it is premature and that it would be burdensome for Defendants.

Rule 26 of the Federal Rules of Civil Procedure provide the procedures and timing for discovery in civil cases. However, Rule 26(a)(1)(B)(iv) exempts from the discovery rules pro-se actions brought by persons in custody of the state. Therefore, this case is exempt from the requirements of Rule 26. Because Defendants in this case have just been served and the time to answer the complaint has not yet elapsed, a request for depositions is premature. Therefore, Plaintiffs' motion for audio-taped

1 depositions is dismissed without prejudice to re-filing at the  
2 appropriate time.

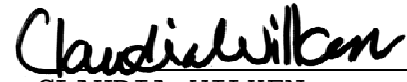
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4 IT IS SO ORDERED.

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6 Dated: 5/5/2011

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CLAUDIA WILKEN  
United States District Judge

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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 TODD ASHKER et al,

Case Number: CV09-05796 CW

5 Plaintiff,

**CERTIFICATE OF SERVICE**

6 v.

7 ARNOLD SCHWARZENEGGER et al,

8 Defendant.

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,  
10 Northern District of California.

11 That on May 5, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies)  
12 in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in  
13 the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's  
14 office.

15 Danny Troxell  
16 Pelican Bay State Prison  
17 B76578  
18 P.O. Box 7500  
19 D1-120  
20 Crescent City, CA 95532

21 Todd Ashker C58191  
22 Pelican Bay State Prison  
23 P.O. Box 7500  
24 D1-SHU  
25 Crescent City, CA 95532

26 Dated: May 5, 2011

27 Richard W. Wiekling, Clerk  
28 By: Nikki Riley, Deputy Clerk

United States District Court  
For the Northern District of California